

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

INTERNATIONAL BUSINESS MACHINES CORPORATION,)	
)	
)	
Plaintiff,)	C.A. No. 22-590-GBW
)	
v.)	JURY TRIAL DEMANDED
)	
ZYNGA INC.,)	PUBLIC VERSION
)	
Defendant.)	

**DECLARATION OF BENJAMIN J. RODD IN SUPPORT OF PLAINTIFF'S MOTION
FOR ENHANCED DAMAGES**

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Dated: October 22, 2024
11839935 / 00311.00032
Public Version Dated: October 29, 2024

I, Benjamin J. Rodd, declare as follows:

1. I am an attorney with the law firm of Desmarais LLP, counsel for Plaintiff International Business Machines Corporation (“IBM”) in the above captioned matter. I am admitted pro hac vice to this Court. I submit this declaration based on personal knowledge, and if called upon as a witness, I could competently testify to the truth of each statement herein.

2. I make this declaration in support of Plaintiff’s Motion For Enhanced Damages, submitted concurrently.

3. Attached hereto as Exhibit 1 is a true and accurate copy of the trial transcript for September 9, 2024 (transcript pages 1-292), with annotation added for clarity.

4. Attached hereto as Exhibit 2 is a true and accurate copy of the trial transcript for September 10, 2024 (transcript pages 293-605), with annotation added for clarity.

5. Attached hereto as Exhibit 3 is a true and accurate copy of the trial transcript for September 11, 2024 (transcript pages 606-917), with annotation added for clarity.

6. Attached hereto as Exhibit 4 is a true and accurate copy of the trial transcript for September 12, 2024 (transcript pages 918-1172), with annotation added for clarity.

7. Attached hereto as Exhibit 5 is a true and accurate copy of the trial transcript for September 13, 2024 (transcript pages 1173-1319), with annotation added for clarity.

8. Attached hereto as Exhibit 6 is a true and accurate copy of Defendants’ Sixth Supplemental Joint Responses To Plaintiff’s First Set Of Interrogatories (Nos. 1-15), dated January 23, 2024, with annotation added for clarity.

9. Attached hereto as Exhibit 7 is a true and accurate copy of the hearing transcript of the discovery teleconference held on December 2, 2022, with annotation added for clarity.

10. Attached hereto as Exhibit 8 is a true and accurate copy of an email from Clement Roberts, dated August 25, 2023, with annotation added for clarity.

11. Attached hereto as Exhibit 9 is a true and accurate copy of an email from Clement Roberts, dated July 27, 2022, with annotation added for clarity.

12. Attached hereto as Exhibit 10 is a true and accurate copy of an email from Clement Roberts, dated July 20, 2022, with annotation added for clarity.

13. Attached hereto as Exhibit 11 is a true and accurate copy of an email from Clement Roberts, dated November 15, 2023, with annotation added for clarity.

14. Attached hereto as Exhibit 12 is a true and accurate copy of an email from Clement Roberts, dated November 2, 2023, with annotation added for clarity.

15. Attached hereto as Exhibit 13 is a true and accurate copy of the Supplemental Expert Report Of Kevin C. Almeroth, Ph.D. On Non-Infringement Of U.S. Patent No. 7,072,849, dated March 22, 2024, with annotation added for clarity.

16. Attached hereto as Exhibit 14 is a true and accurate copy of the Supplemental Expert Report Of Kevin C. Almeroth, Ph.D. On Invalidity Of U.S. Patent No. 7,072,849, dated August 5, 2024, with annotation added for clarity.

17. Further attached hereto are true and correct copies of the following trial exhibits that were admitted at trial, with annotation added for clarity:

Exhibit	Description	Excerpt Only
DTX-0474	Letter From Trintex To Coldwell Banker (dated March 31, 1987)	
DTX-0475	Letter From Trintex To Dreyfus Service Corporation (dated May 13, 1987)	
DTX-1166	U.S. Patent No. 7,047,209	
JTX-0001	Certified U.S. Patent No. 7,072,849	
JTX-0006	Letter from W. LaFontaine to D. Shah re Notice of Infringement for IBM Patents US 8,219,924, US 5,796,967 US 7,072,849 US 7,631,346 and US 7,099,862 (06-26-2014)	
JTX-0007	Email from W. LaFontaine Jr. to D. Shah re Notice of Infringement for IBM Patent US 6,489,974 (12-21-2015)	

Exhibit	Description	Excerpt Only
JTX-0008	Email from C. Roberts to T. McBride re IBM Allegations of Infringement (04-24-2020)	
JTX-0012	Letter from L. Pinto to C. Wilson re Zynga's Infringement of US Patent No. 7,702,719 (05-20-2020)	
JTX-0178	Presentation: IBM - Zynga - Farmville – U.S. Patent 7,072,849: Method for Presenting Advertising in an Interactive Service (2011)	
JTX-0196	Spreadsheet: Zynga - May 2016 through May 2022 Bookings.xlsx [NATIVE]	
PTX-1048	Email from C. Roberts to T. McBride et al., re IBM Infringement Allegations (04-30-2020)	
PTX-1057	Presentation: Empires & Puzzles - Dynamic Offers (12-18-2023)	
PTX-1305	Zynga Inc. Form 10-K for the year ended 12-31-2021	p. 1, 4, 6, 18, 40, 138
PTX-1320	Presentation: Oksana Kohutyuk - HiR Buyer Clustering (11-09-2017)	
PTX-1465	Web Page: Car IAPs - CSR2 - Zynga Wiki (https://wiki.corp.zynga.com/display/CSR2/Car+IAPs)	
PTX-1600	WOZ Slots - Battle Pass Currency Event (09-01-2022)	
PTX-1610	Wizard of Oz Slots - OOC Optimization (Experiment plan) (03-18-2020)	
PTX-1675	Potter - Puzzle Pass (Battle Pass) Final Specification	
PTX-2101	Car Promotions - WIP - CSR2 - Zynga Wiki.pdf	
PTX-3047	Screenshot taken from JTX-0305 (IBM-ZYNGA00036930) at timestamp 27:26	
PTX-3048	Screenshot taken from JTX-0305 (IBM-ZYNGA00036930) at timestamp 28:22	
PTX-3049	Screenshot taken from JTX-0305 (IBM-ZYNGA00036930) at timestamp 28:24	
PTX-3131	Screen capture: CSR - Shop1	
PTX-3155	Screen capture: Farmville 3 - Shop1	

Executed on October 22, 2024, in New York, NY.

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Respectfully submitted,

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